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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,722	03/06/2002	Jack C. Kelley	3050-02	6947

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THE LUBRIZOL CORPORATION
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WICKLIFFE, OH 44092

EXAMINER

MCAVOY, ELLEN M

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 04/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/091,722

Applicant(s)

KELLEY, JACK C.

Examiner

Ellen M McAvoy

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Waddoups et al (6,074,993), alone or in combination with Meinhardt et al (4,234,435).

Waddoups et al ["Waddoups"] disclose a lubricating oil composition which comprises (a) an oil of lubricating viscosity, (b) at least one calcium and magnesium overbased detergent, (c) an oil soluble dimeric molybdenum compound, (d) an oil soluble organic trinuclear molybdenum compound, and (e) at least one zinc dithiophosphate compound. Waddoups teaches that suitable base oils include one or more of the base stock groups or mixtures of the base stock groups set forth in the API publication including Group I basestocks. See column 1, line 62 to column 2, line 24. Suitable molybdenum compounds for component (c) include molybdenum dialkyldithio-carbamates (see column 5, top) which may be used in an amount to provide up to 2000 ppm molybdenum, preferably 400 to 2000 ppm molybdenum. Waddoups teaches that suitable trinuclear molybdenum compounds, component (d), also include dithiocarbamates which may be present in an amount to provide 10-350 ppm molybdenum. See column 7, lines 13-23. In addition, the phosphorus content from the zinc dithiophosphate should be from about 0.025 to about 0.1 weight %. See column 9, lines 6-11. The composition may also contain conventional additives such as succinimide dispersants (column 9, lines 43-57) and various

antioxidants including sulfurized hydrocarbons and diphenylamines. See column 10, lines 30-43. Meinhardt et al ["Meinhardt"] is added to show that applicant's specific succinic dispersant in a conventional lubricant additive. Thus, all of the components of applicant's claims are taught by the prior art and applicant's open-ended claim language "comprising" allows for the addition of other additives to the composition such as the detergent component of Waddoups. The examiner is of the position that Waddoups alone, or in combination with Meinhardt, meet the limitations of the claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen M McAvoy whose telephone number is (703) 308-2510. The examiner can normally be reached on M-F (7:30-5:00) with alt. Fridays off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (703) 308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Ellen M. McAvoy
Primary Examiner
Art Unit 1764

EMcAvoy
April 17, 2003